COMPULSORY VOTING.

THE history, yet to be written, of political legislation during the first century of the American Republic will contain no more instructive chapter than that devoted to the gradual development and enactment of laws protecting the ballot and providing safeguards for free, untrammelled, and honest voting. A comparison of the complicated and elaborate election machinery of our own days with the simple methods in vogue a century ago shows at a glance the great change which has taken place, and an examination of history will prove that this change has come, not suddenly, but step by step, and only in accordance with popular demand for remedies from evils which were considered both immediate and pressing.

When polling districts were small and sparsely settled, every individual voter was certain to be known to some one among the gathering which from time immemorial surrounded the polling-place. As population increased, and the basis of suffrage was widened, the danger of "repeating" made registry laws necessary, although even to-day they are by no means universal, and may generally be disregarded if the voter is prepared to "swear in his vote" on election day. On the other hand, the freedom of the individual from intimidation and undue influence has been protected; first, by the substitution of the ballot for *viva voce* voting, then by laws requiring the visible part of all ballots to be exactly alike, and finally by the much discussed and famous Australian system. The latter also constitutes an important safeguard against bribery, which crime has been threatened

with penalties of increasing severity. All this, no doubt, evinces a growing sense of the sacredness of the ballot and a determination to spare no effort toward securing honest and fair elections. That it constitutes a decided advance in the moral sense of the people will be denied by no one conversant with the early political history of the nation, and especially the history of party politics in the State of New York.

With this moral awakening there has come a great and important change in the way of thinking of political observers, of deep significance and of far-reaching consequences; the Duty of voting has been more clearly recognized and emphasized than ever before. It has, indeed, never been denied that voting partook of the nature of a duty, as well as a privilege, and Lieber, in his classical work on *Political Ethics*, ably vindicates this view, but almost the entire conception of the act of election by vote, with its attending phraseology, has heretofore been based upon, or derived from, the theory of privilege alone. A constitutional provision establishing universal suffrage is held to "confer the elective franchise," not to "impose the duty of voting," and so on.

This is only natural. During the first half century of this Republic even the educated and cultured classes of almost all European countries were entirely excluded from active participation in the work of government, and voting was, in fact, a franchise, granted most reluctantly after revolutionary struggles, by powers who claimed the privilege of withholding it, and who had no greater wish than that it should be exercised as rarely as possible. Even in this country and in England, before the granting of universal suffrage, the right to vote was preëminently a privilege which distinguished its possessor from other less favored men. So highly was this distinction esteemed, that the corresponding duty was almost wholly lost sight of, and it is an interesting study to note how this view has gradually changed to the very opposite, now that, so far

from being withheld from a single person deserving it, the right to vote has been granted to thousands in whose hands it is a serious menace to our institutions.

Practical difficulty has in this case, as in many others, compelled political science to revise its terms and doctrines, and the result is, as usual, greater exactness of definition and a wider application of sound principles to the facts and problems of the day.

The object for which a man is invested with the right to vote is one entirely outside of himself, or, as the Germans would express it, it is purely *objective*. It may be accepted as a principle of political ethics that the elective franchise is a solemn trust, held by each individual voter for the benefit of all who are affected, directly or indirectly, by the result of the election. It is an axiom enacted into law with all the sanction of severe penalty, that a vote is not property—a legitimate object of bargain and sale. Likewise the laws punishing intimidation, or preventing it by devices intended to secure secrecy, declared in effect that a vote is not a private matter, and as such to be used as a means of pleasing an employer, a creditor, or a powerful neighbor. To this political ethics adds the rule that the ballot should not be made use of to gratify a whim or a sentiment, revenge or gratitude. The conclusion follows irresistibly that the ballot is a trust, and it seems equally clear that when this trust has once been accepted, it is thereafter the bounden duty of every trustee to administer it regularly, uninterruptedly, and unflinchingly. Stress is laid upon the last word, for apart from *a priori* reasoning, it will be admitted as a matter of practical politics, that to abstain from voting at any election in this country on the part of a man of sufficient intelligence to form an opinion upon the issues involved, is in effect a furtive exercise of the elective franchise, in that it doubles the power of the vote of a man holding opposite views, and who does cast a ballot.

It will hardly be denied that such a negative exercise of

the highest prerogative of a freeman is detrimental to the best interests of the community. Important as it is to have an intelligent and educated electorate, it is of equal moment that all the latent force of discernment and knowledge in the State or the nation be brought to bear upon the decision of vital political issues. To withhold a ballot which, if cast, would represent an honest and intelligent judgment, is plainly to shirk duty, bring contempt upon the very idea of self-government, impose upon other qualified voters, and surrender to those least fitted to cast their suffrages. To quote Lieber:

"The more extended the elective franchise is, the more it must likewise extend to those persons to whom time is of little value, to people who make a feast day, perhaps a riotous day, of the election time. They whose voting are the least desirable are the surest to be at the poll; but the industrious mechanic, the laborious farmer, the man of study, the merchant and professional man, in short, all those who form the sinew and substance of the State, feel it a sacrifice of time to go to the place of voting, where they are not unfrequently delayed for a long time by the other class from depositing their vote, especially in populous places. They are, therefore, the more imperatively called upon to keep constantly before their minds how important it is that they should vote, and not leave the election to be directed by those who have the smallest stake in society." (*Political Ethics*, Ed. Woolsey, Vol. II. p. 231.)

Surely, a man who from indolence or disdain does not go to the polling-place knows little of the importance of the whole institution of the State, or must be animated by very little public spirit, or he deserves the mantle of lead which Dante apportions to cowards in his Inferno. The citizen's duty in casting his ballot does not differ in kind from that of the juryman sworn to decide the issues presented without fear or favor.

The extent to which this duty is shirked is easily ascertained, at least approximately. The interest which centres in a Presidential contest is generally sufficient to bring out the fullest vote obtainable without compulsion, and a comparison of the total vote in a Presidential year with that in

an "off" year shows almost the entire number of shirks. In the State of New York 300,375 persons who voted in 1888 remained away from the polls in 1889, and 286,278 did so in 1890. In the last mayoralty election in New York City over 35,000 men who had even registered abstained from voting, with the result that the city was once more turned over to an organized gang of plunderers. A more deliberate and extensive betrayal of trust would be difficult to find. In Massachusetts the total vote of 328,588 in 1888 fell to 260,798 in 1890, a difference of 67,790. In Chicago the figures are even more startling. In the spring election of 1887 less than 72,000 out of a possible 138,000 were cast —66,000 citizens failing in their duty—while in June of the same year, at the judiciary election for the choice of Judges for a city of almost a million of souls, the total vote was 44,074, less than one-third of the number of qualified voters.

No doubt these figures could be supplemented almost *ad infinitum*. It is safe to say that at almost every election in this country—National, State, and municipal—more qualified voters abstain from voting than would be necessary to change the result.

There can be no doubt of the existence of the evil: the question is, What relief is possible?

If there is any milder method than compulsion by law to remedy this dangerous failure in popular government, it has not been suggested.

The idea of compulsory voting is comparatively new, and thus far the discussion has been more academic than practical. Lieber dismisses it with a most superficial opinion to the effect that punishment for shirking would be inequitable, and the example of the ancient Galli, which he quotes on the strength of Cæsar, *B. G.*, V. 56, is found, on closer examination, to refer to armed assemblies, absence from which was justly punishable as desertion.

In his annual message for 1889 Governor Hill, of New York, announced his approval of the idea that compulsory

voting deserved a fair trial, and this recommendation was renewed in the message of 1890. In the course of his observations on the subject in the message of 1889 the Governor makes a contribution to the history of the idea by quoting an almost forgotten ordinance passed by the people of Southampton, Long Island, as early as October 13, 1643, and which reads as follows:

"It is ordered that whatsoever matters or orders shall be referred to the publick vote euery man that is then and there present and a Member of the Courte shall give his vote and suffrage eyther against or for any such matters and not in any case to be a neuter."

The only statute on the subject which has come to the writer's knowledge as having been actually in force is found in John Mercer's *Exact Abridgement of all the Public Acts of the Assembly of Virginia* (Williamsburg, 1737), page 12 (original edition of Virginia laws, page 128), and reads as follows:

"Every freeholder actually resident in each county, shall appear and vote at such election, or shall forfeit Two hundred pounds of Tobacco to the Informer, recoverable as before."

This law was enacted in 1705, and was in force throughout a great part of the Colonial history of Virginia, but it seems to have been the only law of its kind in the Colonies, and it was probably repealed as being superfluous in the thrilling political struggles immediately preceding the Revolution.

There appears to have been no further attempt at legislation in this direction until within a very few years. In accordance with Governor Hill's suggestion, Mr. Henry R. Beekman, of New York, drafted a bill which was introduced into the New York Legislature in 1890, and again in 1891, making abstention from voting punishable by a fine of twenty-five dollars, and directing the District Attorney of each county to sue delinquents in the civil courts. This bill has not been acted upon, and it seems on its face to be utterly impracticable and incapable of en-

forcement. It might have some good effect as a mere declaratory law, putting the stigma of law-breaking upon delinquents, whether they were prosecuted or not, and thus encouraging more active participation in politics on the part of some persons sufficiently sensitive and high-minded to obey a law from choice alone. But it may well be doubted whether these possible good effects would counterbalance the unquestioned evil of encumbering the statute-book with another unenforced and unenforceable penal law. In these days of over-legislation practicability should be the first, if not the ultimate, test for a proposed enactment. A similar bill, submitted to the legislature of Maryland a few years ago, by Mr. Harris J. Chilton, of Baltimore, is open to the same objection.[1]

As the intelligent discussion of so important a question requires a clear statement of the proposed change in all its essential details, it will be useful to outline a statute embodying the ideas set forth in this paper. The fact that in some States an amendment to the Constitution may be necessary as a basis for legislation has little importance at this stage of the discussion. The principle of compulsory voting must first be vindicated as a correct tenet of the science of government and as a practicable and desirable measure. When this has been done the necessary legislation cannot be long delayed. Experience has shown that public opinion, however sluggish in other respects, is practically irresistible in its demand for every possible immediate improvement in the methods and forms of election.

[1] Both of these bills will be found in the Appendix, together with the draft of a law based upon this essay, and which, it is submitted, would not be incapable of enforcement under existing political conditions. A bill which failed to become a law in the Massachusetts Legislature in 1886 is also added. While this essay was in press another bill, prepared by a committee of the New York Republican Club, was introduced in the Assembly at Albany. It resembled the bill of Mr. Beekman, and is open to the same objections, as being cumbersome and unenforceable, as well as giving a dangerous political power to inferior tribunals, by investing them with the right to judge of the sufficiency of alleged excuses.

At the outset the result to be attained should be clearly realized. It is first and foremost, that all qualified voters should exercise their prerogative on every occasion for it. In the second place, it is of the highest importance that the elective franchise should not be cheapened, and it is not desirable that it should lose all attributes of a privilege, and for this reason those who despise or neglect it continuously should be deprived of it.

With these objects clearly in view legislation would, in the first place, declare it to be the duty of every qualified voter to deposit his ballot at the State election next ensuing after the passage of the Act, and pronounce every one neglecting to do so subject to the penalty thereafter provided.

The penalty should be a fine of not less than two or more than five dollars, fixed by the statute, and to be paid before the delinquent could thereafter vote at any election, Federal, State, or municipal.

The list of voters being kept from year to year, with a record of those who voted, anyone desiring to cast a ballot at the following election would be permitted to do so without objection on the score of this Act, if he was recorded as having voted at the previous election. If he were not so recorded it would be incumbent upon him either to—

a. Challenge the record; the registry officers and poll clerks being liable civilly and criminally for inaccuracy or fraud.

b. Pay the fine; or

c. Offer a satisfactory excuse for his neglect to vote previously.

It will be seen at a glance that the third contingency is most difficult to meet. The statute should provide for the numerous cases where a man is excusable, legally as well as morally, for not exercising his franchise; and, on the other hand, it is manifestly impracticable, as well as politically dangerous, to create a tribunal to judge of the

sufficiency of the excuse, or to invest any existing court or board with such powers. In either case the machinery would be too cumbersome to work successfully, and the proceedings would be even more farcical than the present methods of evading or being excused from jury duty. Whatever mode is to be employed it must be self-acting, with heavy penalties for all wilful falsehood or fraud. The chief end to be attained by the law regulating excuses is, not to annoy, more than is absolutely necessary, a man with a good excuse; but to make it, in every doubtful case, quite as convenient to vote as to abstain with reliance on the sufficiency of the excuse next time. Valid excuses may be subdivided into two classes; first, where the abstention from voting is not the act of the individual, but results from operation of law; *e.g.*, where the voter was not qualified, by reason of infancy, too short a residence, or by failing in some other test provided by the Constitution. In such a case a simple statement, with a penalty for untruth, should be a sufficient preliminary to the reception of the ballot. The same might be the case when the voter was absent on public business, civil or military, or where he was actually present at the polling-place, but prevented from voting by accident, violence, or any other good reason.

Second: There are numerous justifiable excuses of private affairs—sickness, absence from home for a stated time previous to and including election day, unavoidable detention, etc., etc. The principle to be observed here is that however justifiable the neglect to vote, it was a neglect of a duty owed to the public, and hence unpleasant consequences are a misfortune of the individual, calling for sympathy, but not for a public remedy. The statute should provide that in such cases a verified statement of the excuse, giving details to be specified, should be filed with the polling clerks a stated time before election. The trouble involved in doing this and the annoyance caused by the necessity of giving details would be an obstacle to careless or vague affidavits, and the rival party

committees might be counted upon to see that no political opponent obtained a vote by an illegal or false excuse—the latter offence being, of course, highly penal.

If a voter neglected to vote at the second election, and thus to purge himself of his first negligence, the fine should be cumulative, and where the neglect continues for say three or five years, a decree of a court of record, to be granted on petition, and necessitating considerable formality, as well as legal assistance, should be required to reinfranchise the delinquent citizen. That, notwithstanding all these precautions, there would be numerous occasions when the law would be evaded, may be conceded, but this certainly does not affect the argument. It will scarcely be denied that an average vote of 95 per cent. of the qualified voters may be attained, and this result is worth striving for.

No greater penalty than disfranchisement seems desirable, although the collection of taxes upon personal property affords a further opportunity to compel delinquent and wealthy citizens to bear a proportionately greater share of the public burdens. When disfranchisement has lost its deterrent power the ballot itself, and with it all free institutions, will be doomed.

Such is, in brief, an outline for possible legislation on this subject. It remains to examine the arguments for and against the proposed change.

The first and most obvious beneficial effect of the statute would be to bring out practically the entire educated vote of the community. The ignorant and vicious voters, as a class, are rarely remiss in exercising their privilege. It is the well-to-do class, the refined and cultured gentlemen who shun contact with "the masses" at the polls, perhaps the secret contemners of their country and worshippers of everything foreign, or, as has been said, the men with clothes that would spoil in a rain, who remain at home, and exhibit a more or less supercilious disregard of their duties as citizens. Even this class, how-

ever, possessing, as it generally does, sufficient intelligence to appreciate the importance of free government, wants to vote *sometimes*, and the consciousness of not being able to do so would be unpleasant—so unpleasant, in fact, as to induce the would-be stay-at-home to submit to some exertion and annoyance. It is unnecessary to enlarge upon the disgrace brought upon self-government, when the ignorant and worthless voters—the men who regard a vote as property, and who will always so regard it—are in a majority and practically govern a free community, while their victims, the law-abiding and worthy citizens, are too cowardly or lazy even to dispute the field. The power and responsibility of official station are on the increase even in this Republic, and hence the choice of officers is a duty of self-government which alone calls for all latent intelligence in the body politic. But another phase of modern political development which increases the importance of a full and intelligent vote should not be overlooked—to-wit: the growing tendency to introduce into the politics of this country something akin to the Swiss *Referendum*. Formerly, the popular vote was taken almost entirely upon Constitutions as a whole; now this is very exceptional, while hardly a year passes when the legislatures of some of our States do not submit some questions of law or policy to the electors at large—either in the shape of a constitutional amendment or as a simple proposition. Very often this is done from sheer cowardice, and under the specious but erroneous plea that even if the legislator voting to submit the proposition doubts the wisdom of a change, "the people have a right to decide."

The evil effects of this error are more far-reaching than is generally supposed. The American legislator is not a delegate—he is a representative, and he has no right to shirk his duty, even at the risk of losing popularity by standing up manfully against persistent clamor. The spectacle of representatives who utterly disapprove of prohibition—to take one of many examples—but who,

nevertheless, seek to escape the necessity of recording their vote, by referring the subject to a popular election, is a most demoralizing one for the youth of the country, who need no example more than that of political courage. Such a proceeding becomes dangerous as well as demoralizing when a constituency to whom the question is referred comprises practically only a moiety of the electoral body of the State. Without compulsory voting such an election, especially if held on a different day from the general State election, becomes simply an occasion for wholesale cowardice. It has been impossible to investigate every case, but it may safely be said that in almost every instance where the policy of prohibition has been adopted, it has been done by a minority of the electors entitled to vote on the subject. The reason is not far to seek. The affirmative is strongly supported by aggressive and fanatical partisans whom many voters are loath to offend; the evils to be remedied are sufficiently palpable to arouse indignation and a general desire to do something; and, on the other hand, the conviction that prohibition as a remedy is not only ineffective, but positively wrong and harmful, comes only after reflection and study. Moreover, to maintain successfully the argument against prohibition, in opposition to the plausible and not always scrupulous reasoning of its supporters, requires more dialectical skill than the average citizen possesses. Hence he takes refuge in abstention from the polls and the privilege of criticising whatever is done. The result is shown in all so-called "prohibition" States, in the shape of a law unsupported by public opinion, and a diminished respect for all legal restraint. What is said of prohibition applies *mutatis mutandis* to every other difficult and important public question. It is only when every qualified voter is compelled to decide for himself, and when he can do so after thorough discussion with absolute secrecy and freedom, that an expression of popular opinion on a question of policy will be entitled to that respect which is due to the true voice of the people.

Besides bringing out the educated and intelligent vote in a community, compulsion would have a decided tendency to increase it by the impetus which it would give to political education in the highest sense of the term. The citizen—not always the least intelligent—who during a campaign is uncertain as to whether or not he will vote at all, and who decides the question on the morning of election day, is not apt to inquire carefully into the issues to be decided or the character of the respective candidates. Consequently his interest in arguments pro and con is most languid, his political knowledge necessarily most defective, and the whole community suffers by his ignorance. But knowing that he must vote, the desire of doing so intelligently will be a powerful incentive, not only to seek political information, but also to take part in such necessary preliminaries as the primary elections and nominating conventions. The public business will become, as it should be, his business, and the incalculable and far-reaching effects of a largely increased feeling and conviction of this kind on the part of the best citizens of the State need only to be suggested to become apparent.

Another beneficial result of compulsory voting would consist in the reduction of expenses incidental to a political campaign. All recent laws for the improvement of elections have aimed at this result, directly or incidentally. The Australian ballot law relieves the individual of the charge for printing ballots, and the Corrupt Practices Act tends, by the publicity which it enforces only too sparingly, to discourage large expenditures for questionable objects. But every reader who has had practical experience in the management of campaigns, either as a candidate or as a member of a campaign committee, will admit that by far the largest item of expense is for "getting out the vote."[1] This involves the hiring of two or more "work-

[1] This has been forcibly stated by so practical a politician as Governor Hill, in his message of 1889, above referred to.

ers" at every poll, with no other duties than to bring reluctant or remiss voters to the ballot-box. It also, especially in country districts, necessitates the hiring of one or more carriages for every voting district, and, as neither party is willing to accommodate opponents, it means that on an average three or four conveyances are required at every rural poll. Of course all these expenses are borne, directly or indirectly, by the candidates, and none of those indicated will be abolished entirely by a compulsory voting law. But it is a well-known fact that, especially in rural districts, and also in the manufacturing centres, the most usual and dangerously elusive form of bribery is the payment of voters for their time and trouble in exercising their right, or rather in doing their duty. The origin of the practice is comparatively innocent. The candidate, in making his canvass, calls upon the farmer, living, say, two or three miles from his polling-place. In answer to exhortations to vote early and "work" all day for the success of his party's principles and candidates, the farmer naturally points to the trouble which this involves for him. It is just about corn-harvesting time, when the loss of a day may be serious, owing to the advanced season—he can but ill spare the time of himself and his hired man, as well as the work of his horses. The entire loss may easily amount to five or six dollars in cash. What more natural rejoinder can be made by a candidate, especially if he is not unprovided with a "bar'l," than the offer to reimburse the patriotic but parsimonious yeoman for his loss? There can be no doubt that this has been done in thousands of instances in many States of the Union. Of course the evil does not stop there. When once the character of the man is so demoralized and debased as to permit him to accept cash reimbursement from an individual for the loss involved in a sacrifice for the public good, the step is a short one to the acceptance of an additional gratuity—to bribery pure and simple.

Analogous transactions, of course, occur with employés

in factories, and, in fact, with laboring men everywhere—and it is perhaps little wonder that the ignorant classes fail to see the humiliation and the wrong of being paid to exercise the highest privilege conferred upon them by virtue of their manhood. But it can scarcely be doubted that the chief seat of this evil is in rural communities, and it is largely instrumental in vitiating what ought to be the most intelligent vote in the country—that of the independent sturdy yeomanry of the soil.

There seems no reason to doubt that compulsory voting would be a complete remedy for this evil.[1] No class is more jealous of its electoral franchise than the farmers—none, moreover, is less inclined to look upon a fine, however small, as a trifle. The double sanction of fine and disfranchisement would, therefore, constitute a most powerful incentive to obedience to the law, and would almost entirely relieve candidates and committees of a serious and dangerous, because plausible, source of expense.

This alone would justify a fair trial of the proposed change, but the principal benefit of a compulsory voting law remains to be considered. It consists in the inculcation of the idea of Duty toward the State—an idea with which a large proportion of voters under a system of universal suffrage is apt to trifle, if, indeed, they do not lose sight of it altogether.

As population increases, the share of each individual in the government becomes more and more infinitesimal, and the sense of responsibility is correspondingly weakened. Moral suasion loses much of its force—if, indeed, it is not rightly regarded as offensive cant—coming from a candidate or even a partisan newspaper, and an electoral "franchise" or voting "privilege," shared by millions to the same extent, does not appear valuable enough to overcome a

[1] Sometimes bribery is resorted to for the object of keeping hostile voters away from the polls, and in rural communities, where voting at best involves considerable trouble and annoyance, this is a particularly plausible and dangerous method for which compulsory voting seems the only effective remedy.

languid interest in the election, or a dread of inclement weather. It is the more necessary to counteract this tendency and to insist that the burden and responsibility of government shall be borne by all whose services the State has a right to claim, since the scope of governmental action is daily becoming wider. We know what our government is, but not what it will be. Already the ominous cry is heard, with more or less distinctness, that the State owes every man a living, and the tendency toward paternalism exemplified in recent reckless legislation, State and Federal, has not nearly spent its force. In such times no truth needs more to be brought home to each individual voter than that he owes a sacred duty to himself, his neighbors, and his country, to exercise his voting privilege conscientiously and regularly. The sanction of the law will have this effect upon thousands who have been negligent heretofore, and the result cannot but be beneficial.

The objections to the proposal under consideration refer both to its practicability and its intrinsic merit. On the former point it can only be repeated that each law must depend upon its provisions in detail, and there is no reason to think that the law sketched in this essay would be impracticable. The more serious question is whether compulsory voting is desirable or not.

It is plausibly argued that the privilege of voting implies that of not voting, and that in many instances conscientious and independent voters, dissatisfied with both nominations of the leading parties, prefer to show their disgust by remaining away from the polls, and "taking to the woods."

The answer to this is, that it leaves the public interest entirely out of view, and treats the voting franchise as personal property—something like a decoration—to be used or not, as individual taste may dictate. It ignores the truth, which cannot be insisted upon too strongly, that the ballot is a sacred trust, held for the benefit of others, and to be used conscientiously as well as intelligently. The

right to vote undoubtedly implies the right not to vote for any particular candidate, and all the effect which the abstention from the polls might produce, as a silent protest against unworthy party leadership, would be equally great if the conscientious and independent voter would vote "in the air"; *i.e.*, if he substituted the name of a candidate best representing his ideal for that of the offensive nominee. The fatal unsoundness of the objection is, however, most clearly seen when we remember the ethical rule, to act in such a way that if everyone in a similar situation acted in the same way the world would be the gainer. Judged by this standard, the independent who remains away from the polls is guilty of passive treason, for if everyone followed his example the result would be anarchy. If the reply is made that the same result would follow the voting of blank ballots, for the prevention of which no provision is made, it must be admitted that no law upholding the secrecy of the ballot can prevent voting in blank. But the man so voting still pays the tribute of hypocrisy, and assumes a virtue though he has it not. His example is, therefore, not so pernicious, and his case belongs to the domain of ethics, not of law. Evasion of duty will continue, under a compulsory voting as under a compulsory jury law, but the question remains as to whether all disadvantages are not more than balanced by the benefits of the law.

That the latter will be denounced as "un-American," "oppressive," "tyrannous," "interference with individual liberty," etc., must be expected. The vague severity of such invective renders it peculiarly well adapted to the needs of all who are at a loss for sound or creditable arguments, but to whom a new idea causes pain. The experience of all recent electoral reforms, and, in fact, of all proposals which were intended to make for righteousness in politics, shows that none have escaped the imputation of being "repugnant to American institutions," and "infringements of liberty." Such opposition is, in the present case,

hardly worthy of serious attention. Immunity from punishment for the neglect of a high public duty is surely a sorry caricature of that American Liberty which would have been lost but for a devotion to duty vindicated by the highest thought and sealed with the noblest blood of the nation.

It has been asserted that compulsory voting would inure to the benefit of "regular" nominations, and indirectly therefore in many cases of corrupt and dictatorial "bosses." This is little more than pure dogmatism. The Australian ballot reform bill has set at nought by its practical working numerous ingenious and plausible objections urged in advance, and compulsory voting would probably do the same. With the real Australian ballot, having all names on one sheet, the incentive to independent voting is very great, and with compulsory voting the chance of getting the true sense of the people is vastly increased. If this inures to the benefit of unworthy causes or candidates it merely shows the need of more political education of the voters themselves.

A more serious problem is presented in the application of the principle of compulsory voting to the large class of ignorant foreign and negro voters in the country. On the surface it seems absurd to compel unworthy or corrupt voters—who may perchance happily be so indifferent to the welfare of the country as to neglect their dangerous right—to cast ballots each one of which will offset the choice of an intelligent and honorable citizen. This is, however, merely stating the reverse of the proposition upon which the entire principle is founded, and utterly ignores the real situation. The fact is, that the process of election has, by the increase of population and the consequent multiplication of political interests, become so complicated and uninviting, yet, withal so important, that it is necessary to compel intelligent and honorable voters to cast ballots, each one of which will offset a vote sure to be given by ignorance and vice. It may be admitted that

this indicates political degeneracy, and that it would be better if compulsion were unnecessary. But the statesman is compelled to consider practical remedies for the state of facts as it is, to see straightly and think clearly, and surely nothing is of greater practical importance than to arrest the deterioration of a fundamental political process—such as election in a Republic, as soon as possible. The question must recur: Is compulsory voting a feasible remedy for the practical evil from which the State is now suffering, to-wit: indifference on the part of a controlling portion of its best citizens? If it is, the law cannot respect persons, and it can only be confidently and reasonably hoped that for every unworthy ballot the law will insure the casting of several worthy ones.

Moreover, the novelty of the idea is likely to deter many hopelessly ignorant would-be voters at the first election governed by it, and their consequent ultimate disfranchisement would be a result which could be called neither unjust nor undesirable.

But what about the negro who wishes to vote but is not allowed to do so? Would it not be the refinement of cruelty to punish him for the non-performance of a duty which he cannot safely undertake? Must not a scientific discussion of compulsory voting as a principle take into account intimidation and the kindred problems presented by the social and political situation in the South? Undoubtedly Southern statesmen would protest against a law compelling every ignorant negro to vote as being the worst possible "Force Bill" for that section. But the objections which would hold good in the South in no way touch the underlying principle of compulsion as applied to voting.

The present state of affairs in that section of the country is intolerable, and cannot be acceptable as a permanency to an honorable man of either party. Moreover, it is a state of transition preparatory, in the opinion of the best authorities, to a state of justice and freedom. When this shall have been attained, the South will need the same

election laws as the North, and in the meanwhile its requirements in this direction are wholly exceptional.

In conclusion, stress must be laid upon a fundamental fact which, indeed, operates as a limitation of the whole idea which has been advocated in this paper, though it by no means detracts from its intrinsic merit, namely: Compulsory voting can be considered desirable only as one of a series of measures for the elevation, purity, and security of elections. It is the crowning law of all, and the keystone of the whole arch, but still of comparatively little value by itself. It is urged and defended as a practical measure for the relief from pressing evils of the present political situation in the United States, and its relation to political science is that of an experiment which is at least not opposed to any accepted doctrines, and which is less novel and strange than some of its cognate measures for the purity of the ballot. A brief review of the latter will serve to show this even more clearly.

Modern election reform has rightly begun with the process of nomination, the laws punishing fraud at primary elections and conventions being fundamental, and guaranteeing to every member of a party the right to influence by a fair and honestly counted vote the action of his organization. The right of independent citizens to nominate on petition is recognized and rendered effective by the Australian Ballot Bill, which also has a purifying effect upon campaigns by taking away one source of expense, and by requiring all nominations to be made long enough before election to secure a full and free discussion. The prohibition of political assessments of officeholders has tended to remove a scandalous feature of former political struggles, and no doubt Civil Service Reform itself is a powerful purifying agent. The Corrupt Practices Acts in force in several States are a great step in advance, and when perfected by requiring absolute publicity of the accounts of political committees, with sworn vouchers, and, furthermore, by limiting the amount which can be expended for

any candidate, a great number of scandals in our political life will be eradicated.

One more improvement in the conduct of our campaigns is called for, and can only be attained by the intervention of penal law, and though its only relation to the subject of this paper is that both are measures for the elevation of the elective franchise, a brief reference to it here may not be out of place. The penal law should punish fraud in general, forgery and wilful falsehood in a political canvass. The infamous Morey letter of 1880, and the alleged false and garbled extracts from foreign papers published more recently, are instances of the wrong to be prevented and corrected. If it is criminal to influence an elector's choice with money or the promise of place, it is equally so to deceive him or to influence him by forgery. Society at large must be protected from the effects of both wrongs, and there is no difference in the moral guilt involved. It is true, a law such as has been suggested would reach only the more extreme cases of fraud. The cunning falsehood and malignant insinuations of the demagogue would escape indictment, and would never be punished by a jury containing members of different political parties. To this it may be answered that only the extreme cases are criminal; the demagogue's tricks are simply moral vices, and must be dealt with as such. But with the ever-increasing importance of the stake, especially in Presidential campaigns, the temptation to cross the line dividing what is only wrong from what is criminal, in the way of forgery, garbled quotations, and deliberate falsehoods, in order to win votes, is strong enough to require the repressive sanction of the penal law.

With these measures, the campaign, up to the day of election, would seem to be sufficiently protected against harmful influences. On election day the laws requiring a previous registration of voters, and the Australian ballot law itself, secure to a reasonable degree an honest and an untrammelled vote, without "repeating" and free from the annoying presence of "workers" and "heelers" in the im-

mediate vicinity of the polls. But here modern electoral reform has thus far stopped short, and all the safeguards which have been enumerated may be very easily rendered wholly nugatory so far as their ultimate object—good government—is concerned, unless the arch receives its keystone, and the vote becomes not only honest and free, but also *full*. So long as a determining proportion of voters, sufficient to hold the balance of power between conflicting causes, shirks duty—so long as many of the best and most intelligent citizens follow a mistaken idea of a "liberty not to vote," deterred as many are by the very formalities devised to protect the ballot—so long we have not yet reached the highest level of self-government. With compulsory voting under proper safeguards and restrictions from the primary meeting to the canvass of the votes, everything will have been done which law can do to insure an ideal election, even amid the countless difficulties and struggles of modern political life. By an ideal election is meant one between candidates honestly nominated as the free choice of their respective parties, after a campaign conducted without fraud or deceit, with the expenditure of a moderate amount of money freely subscribed for objects which can bear strict scrutiny, and decided on election day by the honest, free, and full vote of practically all citizens entitled to and whose duty it is to exercise the franchise.

That any law can do but little toward attaining an ideal is not more true that that a wise law can do something. In this particular direction recent experience has shown that legislation can do much more than even its most sanguine supporters dared to hope. The object of this paper will be attained if it has succeeded in showing that compulsory voting, both in theory and practice, is certainly not opposed to or inconsistent with the wise and comprehensive measures for political and electoral reform, the success of which is so marked and encouraging a sign of the times.

FREDERICK WILLIAM HOLLS.

New York.